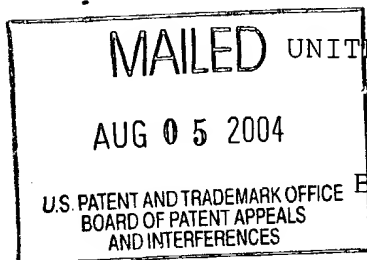


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN J. HEMSEN

Appeal No. 2004-1744
Application No. 09/719,546

ON BRIEF

Before KIMLIN, GARRIS and WARREN, Administrative Patent Judges.
KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-24 and 27-35, all the claims remaining in the present application. Claim 1 is illustrative:

1. An impregnation process, comprising the steps of:
 - a.) providing at least one mobile vessel in which impregnation of a porous article can be carried out, said vessel comprising a chamber for containing a flowable polymerizable impregnating composition and at least one porous article to be impregnated;

b.) providing a series of stations defining a selection of impregnation sequences, each of said stations to perform at least one specific impregnation step on said at least one porous article within said at least one vessel, wherein said series of stations are selected from the group consisting of an impregnating composition addition station, a vacuum station, a pressure station, a centrifuge station, a reclaiming station, a retrieval station and combinations thereof;

c.) sequentially directing said at least one vessel to at least one selected station chosen from said series of stations;

d.) performing said at least one specific impregnation step at said at least one selected station; and

e.) providing a polymerization step to polymerize said impregnating composition within the pores of said porous article.

The examiner relies upon the following references as evidence of obviousness:

Kerns et al. (Kerns)	3,529,320	Sep. 22, 1970
Schön	4,517,137	May 14, 1985

Appellant's claimed invention is directed to a process of impregnating a porous article with a polymeric composition. The process entails providing at least one mobile vessel which comprises a chamber in which impregnation of the article with a flowable polymerizable composition takes place. The process also comprises a series of stations selected from an impregnating station, a vacuum station, a pressure station, etc. According to appellant's specification, the impregnation systems of the prior art employ a single vessel that remains in a stationary position during the process. The specification states that "this usually

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results in very large batch sizes, a situation which is contrary to modern day manufacturing methods which employ continuous throughput of small batches" (page 4, lines 14-16). The specification further states that "[t]he present invention provides a mobile vessel system for impregnating porous articles which uses a transportable vessel for each step in an impregnation process" (page 5, lines 6-7).

Appealed claims 1-24 and 27-35 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over the admitted state of the prior art in view of Kerns and Schön.

Appellant submits at page 4 of the principal brief that "[a]ll claims stand or fall together." Accordingly, all the appealed claims stand or fall together with claim 1.

We have thoroughly reviewed each of appellant's arguments for patentability. However, we are in complete agreement with the examiner's reasoned analysis and application of the prior art, as well her cogent disposition of the arguments raised by appellant. Accordingly, we will sustain the examiner's rejection for the reasons set forth in the Answer, which we incorporate herein, and we add the following for emphasis only.

The principal distinction between the impregnation process of the admitted prior art found in appellant's specification and

the claimed process is that, whereas the prior art process is a batch process that takes place in a stationary vessel, the claimed process is a continuous one that provides a plurality of stations for a mobile vessel. However, we fully concur with the examiner that Kerns and Schön evidence the obviousness of converting the batch process of the admitted prior art to a continuous process comprising a mobile vessel. It is well settled that, in general, it is a matter of prima facie obviousness for one of ordinary skill in the art to transform a batch process into a continuous one for the well-known advantages associated therewith. In re Gioloto, 530 F.2d 397, 188 USPQ 645 (CCPA 1976).

In the present case, we do not subscribe to appellant's argument that the polymeric encapsulation process of Kerns and the non-polymeric impregnation process of Schön are not properly combinable with the impregnation process of the admitted prior art. Rather, we agree with the examiner that the improved continuous process of Kerns, utilizing mobile vessels, and the continuous impregnation process of Schön which also includes a mobile vessel, would have suggested the use of a mobile vessel in the modification of the batch process of the admitted prior art. In the sense that appellant's argument is based on the characterization of Kerns and Schön as non-analogous art, we

agree with the examiner that the references meet the second test for analogous art by being reasonably pertinent to the problem addressed by appellant. As stated by the examiner, "Kerns directly teaches the benefits of switching from a batch process to a vessel transporting process, which allows improved treating times" (page 11 of Answer, last complete sentence). The examiner also correctly notes that "Schön indicates the known use of transport impregnation process features when impregnating an article" (page 12 of Answer, last complete sentence).

We are not persuaded by appellant's arguments that Kerns uses epoxy resin systems which would be "counterintuitive" for an impregnation system, and Schön's heating step prior to impregnation would make the process incapable of impregnating the pores (see pages 7 and 8 of principal brief). It is fundamental that a finding of obviousness does not require the physical incorporation of all the features of the secondary references in the invention of the primary reference. The proper inquiry is what the collective teachings of the prior art would have suggested to one of ordinary skill in the art. In re Keller, 642 F.2d 413, 426, 208 USPQ 871, 882 (CCPA 1981). Here, we are satisfied that one of ordinary skill in the art would have found it obvious within the meaning of § 103 to convert the batch

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impregnation process of the admitted prior art into a continuous one utilizing a mobile vessel and a plurality of stations in light of the teachings of Kerns and Schön.

As a final point, we note that appellant bases no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the prima facie case of obviousness established by the examiner.

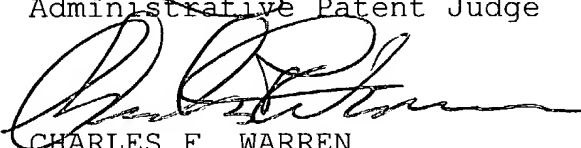
In conclusion, based on the foregoing and the reasons well stated by the examiner, the examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED


EDWARD C. KIMLIN)
Administrative Patent Judge)


BRADLEY R. GARRIS)
Administrative Patent Judge)


CHARLES F. WARREN)
Administrative Patent Judge)

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